

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

Under federal Medicaid legislation, a person who transfers assets for less than fair market value in order to meet Medicaid resource limits is penalized by a period of ineligibility for long-term care services that is proportional to the amount of assets transferred. In essence, this provision avoids Medicaid expenditures for services that the person could have purchased independently had the assets been retained or sold at fair market value.

Legislation applying the transfer of assets provision to the purchase of annuities was enacted in Public Law 109-171 and took effect on February 8, 2006. The law provides that the entire amount used to purchase an annuity shall be counted as a transfer of assets for less than fair market value unless certain conditions are met. One of these conditions is that the state is named as a residual beneficiary to the annuity. The original legislation was retroactively amended in December 2006 by Public Law 109-432. The Department’s medical assistance rules do not correctly reflect those changes.

This amendment:

- Specifies that the residual beneficiary designation must apply to the extent of the amount of medical assistance paid for care of either the annuitant or the annuitant’s spouse in a medical institution, not just for the care of the annuitant.
- Provides that this restriction also applies to annuities for which the spouse of a Medicaid applicant or member is the annuitant. (Other conditions for exemption apply only when the Medicaid applicant or member is the annuitant.)

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on December 15, 2010, as **ARC 9277B**. The Department received no comments on the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on February 8, 2011.

This amendment is intended to implement Iowa Code sections 249A.3 and 249A.4.

This amendment shall become effective on May 1, 2011.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [75.23(9)] is being omitted. This amendment is identical to that published under Notice as **ARC 9277B**, IAB 12/15/10.

[Filed 2/10/11, effective 5/1/11]

[Published 3/9/11]

[For replacement pages for IAC, see IAC Supplement 3/9/11.]